

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JAMES NEWSOME,
TDCJ #610220,

Plaintiff,

v.

KEVIN D. BROWN, *et al.*,

Defendants.

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CIVIL ACTION NO. H-05-0939

ORDER DENYING MOTION FOR COUNSEL

State inmate James Newsome has filed a complaint under 42 U.S.C. § 1983, alleging violations of his civil rights. Recently, the Court granted Newsome leave to proceed *in forma pauperis*. Newsome has now filed a motion requesting appointment of counsel. (Docket Entry No. 5). That motion is denied for reasons set forth briefly below.

Newsome argues that he is entitled to appointment of counsel because he is indigent. Newsome is mistaken. A civil rights plaintiff has no automatic right to the appointment of counsel. *See Hulsey v. State of Texas*, 929 F.2d 168, 172-73 (5th Cir. 1991) (citing *Freeze v. Griffith*, 849 F.2d 172, 175 (5th Cir. 1988); *Ulmer v. Chancellor*, 691 F.2d 209, 212 (5th Cir. 1982)). The appointment of counsel is not required unless a case presents exceptional circumstances. *See Hulsey*, 929 F.2d at 173 (citing *Ulmer*, 691 F.2d at 212-13). Other than pointing to his pauper status and the fact of his incarceration, Newsome provides no other details in support of his request for counsel. Thus, Newsome fails to establish that exceptional circumstances are present.


In the order granting Newsome leave to proceed *in forma pauperis*, the Court specifically instructed that plaintiff should file no motions for appointment of counsel “until the court has completed its screening pursuant to 28 U.S.C. § 1915A, which may include a hearing under *Spears v. McCotter*, 766 F.2d 179 (5th Cir. 1985).” (Docket Entry No. 3, ¶ 9).

The Court is still in the process of screening Newsome’s complaint. In that respect, the Court has requested an amended complaint from Newsome and has provided him with forms for that purpose. That amended complaint is not yet due. Until the Court has completed its review of a properly filed complaint under 28 U.S.C. § 1915A, Newsome’s request for counsel is premature. If appropriate, the Court will reconsider whether counsel is necessary on its own motion.

It is therefore **ORDERED** that plaintiff’s motion for appointment of counsel (Docket Entry No. 5) is **DENIED** at this time.

The Clerk will provide a copy of this order to the parties.

SIGNED at Houston, Texas on **April 20, 2005**.



Nancy F. Atlas
United States District Judge